

AMENDED IN ASSEMBLY AUGUST 6, 2013

AMENDED IN ASSEMBLY JUNE 27, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE APRIL 11, 2013

## **SENATE BILL**

**No. 38**

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**Introduced by Senator De León**

December 5, 2012

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An act to add Section 30009 to the Penal Code, relating to firearms.

### LEGISLATIVE COUNSEL'S DIGEST

SB 38, as amended, De León. Firearms: prohibited persons.

Existing law requires the Attorney General to establish and maintain an online database, known as the Prohibited Armed Persons File, to cross-reference persons who have ownership or possession of a firearm and who, subsequent to the date of that ownership or possession, became a person who is prohibited from owning or possessing a firearm.

This bill would, no later than January 1, 2015, require the Department of Justice to establish a 30-day amnesty period during which a person prohibited from possessing a firearm may surrender his or her firearms to a local law enforcement agency without being charged with illegal possession of a firearm, except as specified. The bill would require the department to provide written notification of the amnesty period to prohibited persons who are eligible to participate in the amnesty period, and would require the notification to include certain information. The bill would require a local law enforcement agency that receives a firearm from a prohibited person during the amnesty period to report specified information to the department and to sell or destroy surrendered firearms, as provided. The bill would require the department to use the

specified information provided by the local law enforcement agency to create a record of each surrendered firearm in the Prohibited Armed Persons File. The bill would also impose a civil fine of up to \$2,500 per firearm on a person prohibited from possessing a firearm *and who is eligible for the amnesty program* who still maintains possession of his or her firearm after the amnesty period. The bill would specify that a prohibited person shall not be charged with illegal possession of a firearm, nor be subject to the fine, if he or she provides evidence satisfactory to the department that he or she lawfully surrendered his or her firearm prior to the commencement of the amnesty period. Because this bill would impose additional duties on local law enforcement agencies, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 30009 is added to the Penal Code, to  
2 read:  
3 30009. (a) In order to reduce the number of firearms possessed  
4 by prohibited persons listed in the Prohibited Armed Persons File,  
5 a 30-day amnesty period shall be established, commencing on a  
6 date to be determined by the Department of Justice but not later  
7 than January 1, 2015, during which a person prohibited from  
8 possessing a firearm may surrender his or her firearms to a local  
9 law enforcement agency without being charged with illegal  
10 possession of firearms, as provided in subdivision (e). No person  
11 convicted of a felony shall be permitted to participate in the  
12 amnesty period.  
13 (b) The department shall provide written notification of the  
14 amnesty period to all prohibited persons eligible to participate in  
15 the amnesty period by first-class mail no later than 60 calendar

1 days prior to the commencement of the amnesty period. The  
2 notification shall specify the firearms possessed by the prohibited  
3 person and provide instructions for the surrender of the illegal  
4 firearms.

5 (c) For each instance in which a local law enforcement agency  
6 receives a firearm from a prohibited person during the amnesty  
7 period described in subdivision (a), the agency shall submit to the  
8 department the following information:

9 (1) The name of the prohibited person who surrendered the  
10 firearm.

11 (2) The person's date of birth.

12 (3) A description of the firearm or firearms surrendered.

13 (4) The serial number of the firearm or firearms surrendered.

14 (5) Any other information deemed necessary by the department.

15 (d) The department shall enter the information received pursuant  
16 to subdivision (c) in the Prohibited Armed Persons File to create  
17 a record of each firearm surrendered during the amnesty period.

18 (e) A prohibited person who surrenders a firearm pursuant to  
19 subdivision (a) shall not be charged with illegal possession of  
20 firearms for any firearm the department has on record as having  
21 been surrendered pursuant to subdivision (d).

22 (f) At the expiration of the 30-day amnesty period described in  
23 subdivision (a), a person prohibited from possessing a firearm *and*  
24 *eligible to participate in the amnesty program* who still maintains  
25 possession of his or her firearms shall be subject to a civil fine of  
26 up to two thousand five hundred dollars (\$2,500) per firearm in  
27 addition to any criminal penalties authorized by law, including,  
28 but not limited to, penalties described in Chapter 3 (commencing  
29 with Section 29900) of this code and Sections 8100 and 8103 of  
30 the Welfare and Institutions Code.

31 (g) A prohibited person shall not to be charged with illegal  
32 possession of a firearm, nor be subject to the fine described in  
33 subdivision (f), if he or she provides evidence satisfactory to the  
34 department that he or she lawfully surrendered his or her firearm  
35 prior to the commencement of the amnesty period.

36 (h) Any firearms surrendered to a local law enforcement agency  
37 pursuant to this section shall be sold or destroyed as provided in  
38 Section 18005.

1 (i) Sections 26500 and 27545, and subdivision (a) of Section  
2 31615, shall not apply to the surrender of firearms to a local law  
3 enforcement agency pursuant to this section.

4 SEC. 2. If the Commission on State Mandates determines that  
5 this act contains costs mandated by the state, reimbursement to  
6 local agencies and school districts for those costs shall be made  
7 pursuant to Part 7 (commencing with Section 17500) of Division  
8 4 of Title 2 of the Government Code.

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